

CONTINUATION OF THE WABASH AND ERIE CANAL.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

A report from the Commissioner of the General Land Office, and correspondence relative to selections of land for the continuation of the Wabash and Erie canal.

JANUARY 30, 1844.

Read, and laid upon the table.

TREASURY DEPARTMENT,
January 27, 1844.

SIR: I have the honor to submit, herewith, a report from the Commissioner of the General Land Office, under date of the 26th instant, enclosing copies of a correspondence between the Executive and the Canal Commissioner of the State of Indiana, and the Commissioner of the General Land Office, in answer to the resolution adopted by the House of Representatives on the 12th instant, "that the Secretary of the Treasury be directed to communicate to this House any communications he may have received from the State of Indiana relative to the selection of lands for the continuation of the Wabash and Erie canal west of Lafayette, Indiana, with any correspondence on file on that subject."

I have the honor to be, very respectfully, your obedient servant,

J. C. SPENCER,
Secretary of the Treasury.

HON. JOHN W. JONES,
Speaker of the House of Representatives.

GENERAL LAND OFFICE,
January 26, 1844.

SIR: In pursuance of the call of the House of Representatives of the 12th instant upon the Secretary of the Treasury, referred to this office, for "any communications he may have received from the State of Indiana relative to the selection of lands for the continuation of the Wabash and Erie canal west of Lafayette, Indiana, with any correspondence on file on that

subject," the enclosed copies of letters between the Executive and Canal Commissioner of Indiana, and this office, are respectfully submitted.

I have the honor to be, very respectfully, your obedient servant,

THO. H. BLAKE, *Commissioner.*

Hon. J. C. SPENCER,

Secretary of the Treasury.

DELPHI, June 4, 1843.

DEAR SIR: It is a matter of deep interest to the State, and especially to the western portion of it, that we should be enabled to obtain good lands, in lieu of the lands of which the State has been deprived by operation of the pre-emption laws. Good lands cannot be selected out of the unsold lands that are now subject to entry. Could you not order the survey of the Miami reservation during the present summer? I am aware that, under the present law, we could not select [lands] from the reservation until they were first offered for sale by the General Government; but if you cause the survey to be made during the present season, we could make the selections, and apply to Congress to confirm them. The whole amount pre-empted (according to your report to me) of lands that were selected for the completion of the Wabash and Erie canal, is upwards of 35,000* acres.

We have progressed with the canal beyond my expectations; and I flatter myself that we will succeed in building it to Terre Haute out of the proceeds of the land, provided we can make good selections for the remaining balances. It is unnecessary for me to urge you on this subject, as I know there is no one who feels more deeply interested than yourself.

Your most obedient servant,

JAMES BLAIR.

Hon. T. H. BLAKE.

GENERAL LAND OFFICE,
June 21, 1843.

DEAR SIR: I have received your letter of the 4th instant, urging the propriety of having the Miami reservation in Indiana surveyed the present season, with a view to the further location of canal lands, the judicious selection of which has such an important bearing upon the great work intrusted to your care. From an early period of my occupancy of this office, I have manifested a desire to have this fine and extensive tract of country surveyed and brought into market, deeming it due to the State and the public interest to have it done as soon as circumstances would admit of it; and that no corresponding action has been had, is not attributable to any abatement of that feeling, or want of proper disposition on the part of the Government, but to the treaty stipulations with the Indians, which must be respected before any other consideration. By the 8th article of the treaty of November 28, 1840, with the Miamies, they have five years from that time to remove in; and, although it has been said that it was not contemplated by the

*35,319.52 exact quantity.

parties that this article should delay the survey and sale, this averment has never received their mutual sanction; and, therefore, in justice and humanity, the Indians cannot, for the present, be molested. It is very possible, however, that, without doing anything which might be inconsistent with the letter of the law and the usage of the Government, this object could be accelerated. I have been informed that the Indians are willing at any time to make the exploration authorized by the treaty preparatory to their removal, and to depart for their new homes as soon thereafter as practicable; and, before the receipt of your letter, I had submitted this fact to the proper authority, and requested that an agent might be appointed to accompany them. This I hope will be done at an early day; and, if so, will put in rapid process the removal of every obstacle to the survey.

As to the selection to be made by you (as you contemplate) out of these lands, immediately consequent upon their survey, subject to the confirmation of Congress—unauthorized as it is at present by any provision of law, it could not be expected of me to express any approval or encouragement. But, on the other hand, I will remark, that, as the work to be benefited by it is one not confined in its advantages to the State, but is of a great, general, and abiding interest; and as desirable selections can no longer be made out of the public lands, and you are now engaged in the crowning struggle of the great enterprise, it would be both unfeeling and unjust in me to conclude that your reliance on the liberality of Congress would be misplaced. It does not appear probable, however, that there will be any necessity for your anticipating the action of Congress by any movement of the kind to which you allude, and which might, in some degree, embarrass the question; for the lands in this reserve are expressly excepted by law from pre-emption, and cannot be attached to any land district until the next session of Congress, at which time the question of consenting to the desired selection by the State can be very appropriately brought forward.

With high regard, your obedient servant,

THOS. H. BLAKE, *Commissioner.*

JAMES BLAIR, Esq., *Com. Wabash and Erie Canal,*
Perrysville, Vermillion County, Indiana.

CANAL LAND OFFICE, DELPHI,
November 8, 1843.

Suits have been instituted, on the part of the State, for trespasses committed on canal lands, and have been continued in consequence of the want of evidence of title to the lands: (this is the opinion of the attorneys on the part of the State.) Will you be pleased to furnish such evidence as may be satisfactory?

Please also state to me what number of acres of canal land is the State entitled to, in lieu of the lands that have been pre-empted, on the lands selected for the construction of the *Mohawk* [Wabash] and Erie canal, west of Tippecanoe river. I make this inquiry, because the Governor has, by his agents, selected some 60,000 acres. I apprehend there is some error in this matter, unless the department over which you preside has adopted the true distance on the line of canal as the proper basis upon which to calculate the quantity of land to which the State is entitled under the act of Congress.

The whole distance upon the line of canal from Tippecanoe river to Terre Haute is about 97 miles; this would entitle the State to about 316,800 acres.

We are progressing well with the canal.

Please direct to me at Indianapolis.

Your most obedient servant,

JAMES BLAIR, *Com.*

Hon. T. H. BLAKE.

INDIANAPOLIS, *December 1, 1843.*

SIR: I have the honor, herewith, to transmit a list of selections of lands, on account of the Wabash and Erie canal, west of Tippecanoe river, in lieu of lands covered by pre-emption claims, made by commissioners of the State of Indiana appointed for that purpose.

I have been assured that the State of Indiana is justly entitled to an additional quantity of lands for the Wabash and Erie canal; that the original selections were made on the assumption that the canal would follow a straight line; whereas, if the line of the canal, as located, be adopted as the true basis, the State has been deprived of her full share of lands under the original act of Congress. Selections to cover the estimated deficiency are embraced in the enclosed list. The engineer on the canal west of Tippecanoe will forward a statement on this subject in a few days, explanatory of the grounds assumed in the additional selections.

Lands during the past summer have been selected under the act of Congress allowing selections in lieu of the lands covered by Indian reservations—a list of which has been entered in the State office at Peru; a copy of which will be duly forwarded in a few days.

I have the honor to be, yours, most respectfully,

SAM. BIGGER.

Hon. T. H. BLAKE,

Commissioner General Land Office.

GENERAL LAND OFFICE, *January 24, 1844.*

SIR: Captain James Blair, whilst canal commissioner, requested that the State of Indiana might be put in possession of the necessary evidence of her right to the lands selected for the construction of that part of the Wabash and Erie canal between the mouth of Tippecanoe river and Terre Haute, in order that any suits which it might be deemed necessary to bring against trespassers on those lands might be sustained. In accordance with that request, I have the honor to enclose, herewith, an exhibit, under the seal of this office, of the selections made by the State, so far as approved of at the Treasury Department, in pursuance of the first section of the act of Congress, entitled "An act to confirm to the State of Indiana the lands selected by her for that portion of the Wabash and Erie canal which lies between the mouth of Tippecanoe river and Terre Haute, and for other purposes," approved 27th February, 1841. You will perceive, by the statement at the

conclusion of the exhibit, that the State is entitled to a balance of 35,319 acres, which must, under the second section of the above mentioned act, be selected from "lands subject to private entry."

The letter from your predecessor, of the 1st ultimo, communicating to this office a further selection of canal lands in virtue of this act, to the amount of 61, 801 acres, has not been attended to, in consequence of the statement therein that a report would soon be forwarded by the State engineer, showing the basis upon which the latter selection was made. That report has not yet been received; and the expectation of it has also delayed the completion of the accompanying exhibit, as it was desirable to have some action on that selection before this exhibit was furnished. I deem it not improper, however, to state, in advance, that any selection for the balance to which the State is now entitled, of lands which are not "subject to private entry," cannot be approved; nor can a greater amount be confirmed to the State than the balance of 35,319 acres before mentioned. It is true that the act of February, 1841, does not specify the area of 294,688 acres as that confirmed by it to the State; yet, as that was set forth by the authorities of Indiana as the amount to which the State was entitled, and the confirmatory act was passed upon that specific application, the action of this office must be restrained to that amount, whatever opinion it may entertain of the equitable claim of the State to a greater quantity. It is, perhaps, the case, that the liberal spirit of the act of 2d March, 1827, was not justly regarded in establishing the mode of calculating the extent of the grant made to the State by that law. Instead of allowing for the entire length of the canal, following its sinuosities, the plan agreed upon restricted the grant to the amount to which the State would have been entitled had the canal been a perfectly straight line from one end to the other. By this mode of calculation, the amount confirmed to the State for that part of the canal east of Tippecanoe river was about 547 sections, or 349,849 acres; and, restricting herself to the same plan, she selected for that part of the canal between the mouth of Tippecanoe river and Terre Haute, 294,688 acres, or a little over the area of 460 sections; making, together, 644,537 acres, of which 609,218 acres have been confirmed to the State. The act of 1827 granted to the State the alternate sections within five miles on each side of the canal, to aid in the construction of it; and it is very possible that, to carry out the principle, the grant should be considered as running *pari passu* with the work; that the State should have had five square miles for each lineal mile of the canal, without any exception as to any portion of it, which would so far devolve on the State the entire cost, without curtailing in the least the right of the General Government to the free navigation at all points.

By a careful measurement of the length of this canal, following its meanders as laid down on the plats of it returned to this office by the authorities of Indiana, with a line half a mile in length, it appears that the portion of it lying east of Tippecanoe river is 125 miles long, and between Tippecanoe river and Terre Haute, $100\frac{1}{2}$ miles—in all, $225\frac{1}{2}$ miles. This, at five square miles for each lineal mile, would give 721,600 acres, instead of 609,218 acres, the amount confirmed to the State, and producing a balance at this time of 112,382 acres, instead of the 35,319 acres to which the State is restricted.

These suggestions and data, however, can avail nothing under existing circumstances. They are only given in deference to the opinion expressed

in the letter of the Executive; for this office has not the power to interfere with the mutual understanding of the parties so long conformed to, and much less to go beyond the letter of the law. If the State is equitably entitled to more land, it is with Congress to recognise and satisfy the claim.

I have the honor to be, very respectfully, your obedient servant,

THO. H. BLAKE, *Commissioner.*

HON JAMES WHITCOMB,

Governor of Indiana, Indianapolis.

THE HISTORY OF THE TREASURY

OF THE UNITED STATES OF AMERICA
FROM 1789 TO 1896

BY
JAMES A. COHEN

NEW YORK: THE TREASURY DEPARTMENT, 1896

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